

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED VIA THE ELECTRONIC FILING SYSTEM, ON:

June 8, 2009

/Deborah Novak/

SIGNATURE

June 8, 2009

DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Edward C. Benzel et al
Serial No. : 10/731,964
Filing Date : December 10, 2003
For : APPARATUS FOR REPLACING
A DAMAGED SPINAL DISC
Confirmation No. : 9044
Art Unit : 3733
Examiner : J.N. Harvey
Attorney Docket : AXM-6667

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

1. Pursuant to 37 CFR §1.97 and §1.98, and in compliance with CFR §1.56, the Office's attention is directed to the patents, pending applications, publications and other information listed on the attached PTO-1449. Applicant(s) make no admission that the documents are prior art to the present invention.
2. Regarding each listed document that is not in the English language, an English-language translation accompanies this Statement as indicated on the attached PTO-1449 or a corresponding U.S. Patent is enclosed, or an English abstract, or a concise explanation of the relevance of the document is set forth on an attached sheet.

3. Pursuant to 37 CFR §1.97(b) this Statement is being filed (one must be checked):
- (a) ☐ Within three months of the filing date or date of entry into the National Stage.
 - (b) ☐ Before the mailing date of a first Office Action on the merits.
 - (c) ☒ After the period set forth in 37 CFR §1.97(b) but before the mailing date of either a final action or a notice of allowance or an action that otherwise closes prosecution in the application.
 - 1) ☒ A certification is given below,
 - 2) ☐ Enclosed is a check covering the fee (\$180.00) set forth in §1.17(p) for consideration of this Statement, or
 - 3) ☐ Charge the fee set forth in 37 CFR §1.17(p) to Deposit Account No. 20-0090.
 - (d) ☐ After the mailing date of either a final action or a notice of allowance, but before payment of the issue fee. The required certification and fee is indicated below.
 - 1) ☐ Enclosed is a check covering the fee set forth in 37 CFR §1.17(p) \$180, or
 - 2) ☐ Charge the fee set forth in 37 CFR §1.17(p) to Deposit Account No. 20-0090.
4. Certification (if applicable):
- (a) ☒ The undersigned hereby certifies that each item of information contained in this Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement.

- (b) ☐ The undersigned hereby certifies that no item of information contained in this Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the undersigned's knowledge after making reasonable inquiry no item of information contained in the Statement, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Statement.
5. The Commissioner is hereby authorized to charge any additional fees, fees underpaid, or credit any overpayment with regard to this Statement to Deposit Account No. 20-0090.
6. Concise Explanation (if needed):
- (1) ☒ Below is a Concise Statement of Relevance of enclosed non-English language document(s).

U.S. PATENT DOCUMENTS

6,402,785
2002/0161446

FOREIGN PATENT DOCUMENTS

WO 91/13598

Abstract in English

WO 02/089701

Abstract in English

Respectfully submitted,

/James L. Tarolli/
JAMES L. TAROLLI
Reg. No.36,029
Customer No. 26, 294

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
Phone: (216) 621-2234
Fax: (216) 621-4070